

VZCZCXRO9618  
RR RUEHMR  
DE RUEHSB #0319 0741648  
ZNY CCCCC ZZH  
R 151648Z MAR 06  
FM AMEMBASSY HARARE  
TO RUEHC/SECSTATE WASHDC 9749  
INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY  
RUEHUJA/AMEMBASSY ABUJA 1155  
RUEHAR/AMEMBASSY ACCRA 0987  
RUEHDS/AMEMBASSY ADDIS ABABA 1159  
RUEHRL/AMEMBASSY BERLIN 0015  
RUEHBY/AMEMBASSY CANBERRA 0419  
RUEHDK/AMEMBASSY DAKAR 0779  
RUEHKM/AMEMBASSY KAMPALA 1213  
RUEHNR/AMEMBASSY NAIROBI 3557  
RUEHFR/AMEMBASSY PARIS 0985  
RUEHRO/AMEMBASSY ROME 1613  
RUEKJCS/JOINT STAFF WASHDC  
RUFGNOA/HQ USEUCOM VAIHINGEN GE  
RUFOADA/JAC MOLESWORTH RAF MOLESWORTH UK  
RUEKDIA/DIA WASHDC  
RHEHNSC/NSC WASHDC  
RUEHBS/USEU BRUSSELS  
RUCNDT/USMISSION USUN NEW YORK 1370

C O N F I D E N T I A L HARARE 000319

SIPDIS

SIPDIS

AF/S FOR B. NEULING  
SENIOR AFRICA DIRECTOR C. COURVILLE

E.O. 12958: DECL: 03/15/2015  
TAGS: [ASEC](#) [PGOV](#) [PHUM](#) [PREL](#) [ZI](#)  
SUBJECT: JUDGE FREES SEVEN ARMS CACHE DEFENDANTS

REF: HARARE 317 AND PREVIOUS

Classified By: Charge d'Affaires, a.i. Eric T Schultz under Section 1.4  
b/d

11. (C) Ruling that police had acted improperly, High Court Judge Charles Hungwe on March 14 withdrew charges against all suspects linked to the arms cache discovered in Mutare last week, except for Michael Peter Hitschmann (reftel). The seven were released the morning of March 15. Zimbabwe Lawyers for Human Rights (ZLHR) lawyer Tafadzwa Mugabe ) who along with Trust Maanda had been representing several of the accused - gave post a copy of the ruling (emailed to AF/S) that released MDC MP Mutsekwa and MDC activists Nyamhoka and Sibanda. ZLHR director Arnold Tsunga on March 15 confirmed that the other four suspects ) three police officers and an army captain ) were also freed. In making the strongly worded ruling, Hungwe declared that the arrests were unlawful and that the police had conducted the investigation unprofessionally by beating some of the suspects.

12. (C) Tsunga said that lawyers representing the accused had earlier begun to suspect that Hitschmann ) who was being treated as a state witness, according to Hungwe's ruling - was actually working for the police and had falsely implicated the other suspects. They therefore agreed not to represent the former volunteer policeman, nor did they apply for his release.

13. (C) Meanwhile, Tsunga confirmed that MDC former MP Roy Bennett fled Zimbabwe earlier this week to London (not to South Africa, as headlined in the state-controlled Herald newspaper March 15) after he had been subjected to intense media speculation and a police search. Tsunga reported that Bennett was planning to return to Zimbabwe now that Justice Hungwe had released the others. Tsunga was unaware of the timing of Bennett's return.

14. (SBU) Apparently unrelated to the weapons seizure, police

on March 14 arrested Anti-Senate MDC MP Timothy Mubhawu, who represents the Harare high-density suburb of Tafara-Mabvuku, for allegedly violating a section of the Public Order and Security Act (POSA) against insulting the president. According to the Herald, Mubhawu gave a ride to several soldiers in Harare earlier this month. As the soldiers disembarked from the MP's vehicle, Mubhawu reportedly asked them "why do you let Mugabe let you suffer?"

-----  
Comment  
-----

15. (C) The GOZ's apparent plans to disrupt the MDC Congress this weekend have hit a surprise & oil spill.<sup>8</sup> They had successfully locked up one Morgan Tsvangirai-aligned MP, charged another under a law that carries a life sentence, and driven a third out of the country. Justice Hungwe's ruling, however, effectively scuttles these efforts and serves as a refreshing reminder that there remain some independent justices despite years of ZANU-PF hounding. Moreover, Hungwe's exposure of the GOZ's ham-handed attempt to frame opposition activists on assassination charges yields a sizable victory to the Anti-Senate MDC at a crucial time as it attempts to re-energize its constituents and refurbish its credibility with the public.  
SCHULTZ